

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DAVID A. MCDONALD,

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Plaintiff,

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vs.

CASE NO. 1:23CV00464-TFM-N

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DARRELL WAY GRIMSLY

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Defendants.

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**PLAINTIFF'S NOTICE OF DEFENDANTS' FAILURE TO SUPPORT
THEIR MOTION TO SEAL THE COMPLAINTS**

Plaintiff DAVID A. MCDONALD, pursuant to the Court's Order of September 13, 2024, (Doc. 54) notifies the Court of Defendants' failure to correct the deficiencies with their Motion to Seal the Initial Complaint (Doc. 3) and the First Proposed Redacted Initial Complaint (Doc. 27) by September 27, 2024, as required by the Court's September 13, 2024, Order. (Doc. 54, p.7.) In further support of this motion, Plaintiff states as follows, to-wit:

1. Defendants Darrell Wayne Grimsley, Jr., Liberty Rent, LLC; and Data Holdings, Inc filed a "Motion to Seal Complaint" on December 8, 2023 (Doc. 2). In accordance with the Court's briefing schedule (Doc. 6), Plaintiff David A. McDonald filed an "Objection and Response in Opposition" to the motion (Doc. 22), with Defendants reply (Doc. 26) filed thereafter. (*SEALED* Doc. 27).

2. The Court issued its Order on the Motion to Seal on September 13, 2024, finding in summary that (1) "Defendants request to seal the initial complaint in its entirety was overbroad from the start, as it was readily apparent when the motion to seal was filed that redaction of only

parts of the pleading was a suitable alternative[]” (Doc. 54, p.7); (2) “Defendants have failed to convincingly show that any of the specific provisions in the initial complaint they have cited are worthy of being kept from the public docket[]” (Id.); (3) Defendants “failed to substantiate their claims that the initial complaint contains ‘confidential business information[]’” (Id. at 8); and (4) Defendants did not make a “particularized showing for the provisions they claim are subject to attorney-client privilege” to be excluded. (Id.)

3. The Court, nonetheless, gave Defendants the opportunity to request leave to correct these deficiencies and file, no later than September 27, 2024, “a partially redacted copy of the initial complaint (Doc. 3) that demonstrates, with sufficient specificity and particularity, why certain portions of the initial complaint should be excepted from the presumed right of public access.” (Doc. 54, p.14.) Defendants failed to file any motion or additional evidence in this regard.

4. The Court further ordered, “[s]hould the Defendants fail to timely file such a motion, the Court will forthwith order that those filings be unsealed in full.” (Id. at 15.) As those filings remain sealed, Plaintiff requests that all of the Complaints filed in this case (Docs. 3 & 27) be unsealed in full, consistent with the Court’s September 13, 2024, Order. (Doc. 54.)

WHEREFORE Plaintiff DAVID A. MCDONALD, upon notifying this Court of Defendants failure, moves this Honorable Court to enter an Order unsealing the Initial Complaint (Doc. 3) and the First Proposed Redacted Initial Complaint (Doc. 27) on the grounds that Defendants failed to file the appropriate motion by September 27, 2024, as required by the Court’s Order of September 13, 2024, (Doc. 54.)

/s/ Chad C. Marchand

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document by electronically filing same with the CM/ECF system which will send notification of such filing to all counsel of record on this the 31st day of December 2024.

/s/ Chad C. Marchand

OF COUNSEL